

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JESSICA STARK,

Plaintiff,

v.

ABC PEDIATRIC CLINIC, P.A., et al,

Defendant.

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C.A. NO. 4:21-cv-03822

**DEFENDANTS' RESPONSE TO PLAINTIFF'S
MOTION TO COMPEL AND FOR SANCTIONS**

Defendants ABC Pediatric Clinic, P.A., Silen Pahlavan, Sogol Pahlavan and Mohammad (“Mo”) Parvizian (“Defendants”) file this response to Plaintiff’s Motion to Compel and for Sanctions. For the reasons discussed below, Plaintiff’s motion must be denied.

I. WHAT THE CURRENT DISPUTE IS REALLY ABOUT

Plaintiff devotes the majority of her motion discussing matters that have already been addressed and resolved and bare absolutely no relevance or importance to the particular discovery responses at issue. The real issue driving Plaintiff’s current motion is the revelation during her first deposition on April 27, 2022 of her failure to provide key information supporting her claims, such as documents she asserts support her alleged babysitting and work hours (which, as her counsel admits, she delayed providing until June 17 and July 13, 2022), and her unfounded current desire to avoid a second deposition regarding such documents to which she already agreed. *See* Dkt. 28 at pp. 1-2.¹

¹ Although the information Plaintiff delayed providing until months after her deposition is not complete, the undersigned will not resort to the puerile approach of recounting past irrelevant infractions by her counsel in a motion, and is confident that Plaintiff will reconsider her position regarding her second deposition to avoid a motion seeking relief under Rule 30(d)(2).

II. DEFENDANTS' DISCOVERY RESPONSES

A. The Individual Defendants' Responses to Interrogatories 2 and 3.

Plaintiff's Interrogatories 2 and 3 request hours and pay information relevant to her breach of contract claims against the Individual Defendants. As previously discussed, this is information Plaintiff failed to produce before her April 2022 deposition and on which she agreed to be deposed a second time. In any event, Plaintiff's Interrogatories 2 and 3 were sufficiently answered by the Individual Defendants, as set forth below:

INTERROGATORY NO. 2: How many hours did Stark spend providing babysitting or housesitting services for the Individual Defendants, broken down per day, per week and per year?

ANSWER: There was no legal or enforceable agreement in which Plaintiff would provide baby-sitting services to the Individual Defendants. However, Plaintiff was paid in cash for occasional babysitting.

SUPPLEMENTAL ANSWER:

At most, no more than 2-3 hours.

INTERROGATORY NO. 3: How much was Stark compensated for providing babysitting or housesitting services for the Individual Defendants, broken down per day, per week and per year, and how were payments made (e.g., cash, check, electronic transfer, Venmo, PayPal, etc.)?

ANSWER: There was no legal or enforceable agreement in which Plaintiff would provide baby-sitting services to the Individual Defendants. However, Plaintiff was paid in cash for occasional babysitting. Cash payments varied.

SUPPLEMENTAL ANSWER:

The cash payment was no more than \$50 and Plaintiff accepted such amount.

See Dkt. 30-13 at p. 4. Plaintiff's counsel can explore these issues further during his deposition of Silen Pahlavan after Plaintiff's second deposition. Plaintiff, or her counsel, may not like the facts they cannot change, but that is surely no reason to file a motion to compel, seek sanctions or for

Plaintiff to renege on an agreement to appear for a second deposition that could have been avoided had she complied with her discovery obligations in a timely fashion.

B. ABC Pediatric Clinic's Responses to Interrogatories 2-5, 8, 11 and 12.

Defendant Mohammad ("Mo") Parvizian, who was deposed in his individual capacity and as ABC Pediatric Clinic's Rule 30(b)(6) representative, provided testimony responsive to Plaintiff's Interrogatories 2, 4-5, 8, 11 and 12. Dkt. 30-12 at pp. That said, no later than September 30, 2022, ABC Pediatric Clinic will supplement its responses to the foregoing with deposition page and line numbers reflecting such responsive testimony, which Plaintiff and her counsel agreed to accept. With respect to Interrogatory 3, which seeks "all compensation (including salary, bonuses, insurance, retirement, and any other benefit or compensation) Stark was receiving from ABC at the time she was terminated," Defendant ABC Pediatric Clinic produced Plaintiff's pay records and personnel documents that, without question, describe and identify information responsive to such request. Such information was produced months before Plaintiff's April 27, 2022 deposition and, importantly, the manner and amount she was paid are not in dispute.

III. CONCLUSION, PRAYER AND RELIEF REQUESTED

For the foregoing reasons, Plaintiff's motion should be denied, and she should be ordered to appear for her second deposition as agreed. *See* Dkt. 28. Defendant's request that the parties schedule the depositions of Plaintiff, Jennifer Starnes and Silen Pahlavan during one or more of the following dates: September 30, October 11, 13, 14, 17, 18, or 19, 2022.² Juanita Alanis is a third party over which Defendants have no control. Although Plaintiff states in her motion that "no dates" were scheduled for her deposition, she and her counsel never sought to schedule the

² These are dates the undersigned received from Plaintiff's counsel today for the depositions of Silen Pahlavan and Jennifer Starnes. Should Plaintiff and her counsel insist on not producing Plaintiff for her second deposition as agreed, the undersigned will file an appropriate motion in due course.

deposition of Alanis by serving her with a subpoena. Nevertheless, if Plaintiff still desires to depose Ms. Alanis, her deposition can be completed during one of the aforementioned dates as well.

Dated: September 23, 2022

Respectfully submitted,

JACKSON LEWIS, P.C.

By: /s/ Charles H. Wilson

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ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing document was filed electronically with the clerk of the U.S. District Court, Southern District of Texas, Houston Division, on September 23, 2022 using the electronic case filing system of the court, and the electronic case filing system sent a “Notice of Electronic Filing” to the following attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means, as follows:

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/s/ Charles H. Wilson

Charles H. Wilson

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ORDER DENYING PLAINTIFF'S MOTION TO COMPEL AND FOR SANCTIONS

On this day, the Court considered Plaintiff's Motion to Compel and For Sanctions. Having considered Defendants' response, the Court DENIES the motion.

Signed on September __, 2022, at Houston, Texas.

Lynn N. Hughes
United States District Judge